

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

IVA JOY AND WILLIAM JOY,

Plaintiffs,

vs.

CASE NO.: 1:20-CV-01131-STA-JAY

AMGUARD INSURANCE COMPANY,

JURY DEMAND

Defendants/Third-Party Plaintiff.

vs.

**ANTHONY LANCASTER INSURANCE
AGENCY, INC. and ANTHONY
LANCASTER,**

Third-Party Defendants.

**AMGUARD’S MOTION TO REVISE ORDERS
ON MOTIONS FOR SUMMARY JUDGMENT**

Comes now Defendant and Third-Party Plaintiff, AmGuard Insurance Company (“AmGuard”), by and through counsel, and pursuant to Fed. R. Civ. P. 54., hereby moves for an order revising this Court’s *Order Denying Defendant’s Motion for Summary Judgment; Order Denying Plaintiffs’ Motion for Partial Summary Judgment; Order Granting in Part, Denying in Part Third-Party Defendants’ Motion for Summary Judgment* (doc. 83) (hereinafter “Order”) as follows:

1. The Court should revise the Order and deny the motion for partial summary judgment of Anthony Lancaster and the Anthony Lancaster Insurance Agency (collectively “Lancaster Agency”) because they did not submit any facts – or properly point to the

absence of evidence – to support their position that they are not required to indemnify AmGuard for punitive damages or the statutory bad faith penalty under Tenn. Code Ann. § 56-7-105.

2. The Court should revise the Order and deny the Lancaster Agency's motion for partial summary judgment on the issue of the statutory bad faith penalty and punitive damages because the Lancaster Agency did not submit a properly supported or cogent legal argument.
3. The evidence submitted by AmGuard, and the letter and spirit of its arguments, show that AmGuard did not intend to waive any arguments raised by the Lancaster Agency.
4. AmGuard did not intend to waive its arguments, and relies on the indemnity provisions in the Agency Agreement and the law cited to the Court in its documents filed in response to the Lancaster Agency's motion for partial summary judgment to the fullest extent allowed under the law.
5. The Court should revise its Order and grant AmGuard's motion for summary judgment insofar as Plaintiffs seek to recover under Tennessee's bad faith statute codified at Tenn. Code Ann. § 56-7-105. It is undisputed that Plaintiff Iva Joy assented to the facts contained in the Proposal of Insurance and that AmGuard issued the policy in question based on the facts in the Proposal of Insurance. Thus, at a minimum, there is a good faith basis to dispute whether there is coverage under the policy and there is no evidence of bad faith.
6. In their response to AmGuard's properly supported motion for summary judgment, Plaintiffs failed to respond to AmGuard's arguments on the issue of bad faith.

Accordingly, this Court should revise its Order and rule that Plaintiffs waived any opposition to AmGuard's motion on the issue of statutory bad faith.

In support of this Motion, AmGuard relies on AmGuard's Legal Memorandum in Support of Motion to Revise Orders on Motions for Summary Judgment filed in support of this Motion, which is incorporated verbatim herein under Fed. R. Civ. P. 10(c), as well as all documents and pleadings on file with this Court.

Respectfully submitted,

MCANGUS GOUDELOCK & COURIE, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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This the April 14, 2022.

/s/ Brian F. Walthart
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